

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
EASTERN DIVISION**

**JAMES MASON**

**PETITIONER**

**v.**

**No. 2:12-cv-37-DPM-JTK**

**T.C. OUTLAW, Warden, F.C.C. Forrest City**

**RESPONDENT**

**ORDER**

Mason has filed a petition for a writ of habeas corpus, arguing that his 1999 Controlled Substances Act sentence was unlawfully enhanced when the sentencing judge counted a five-month CSA sentence imposed in 1995 as a prior felony drug conviction. Mason has objected to Magistrate Judge Jerome T. Kearney's recommendation, *Document No. 11*, that the Court dismiss Mason's petition. On *de novo* review, FED. R. CIV. P. 72(b)(3), the Court adopts Judge Kearney's well-reasoned opinion as its own Order. A felony charge begets a felony conviction even if the sentence imposed is less than one year. If Mason's petition were properly before the Court, it would fail on the merits. The petition is dismissed without prejudice.

So Ordered.

D.P. Marshall Jr.  
D.P. Marshall Jr.  
United States District Judge

13 March 2013